

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARISSA COLLINS, as Conservator for
JASMINE MARLOWE-COLLINS, a minor,

Plaintiff,

Case No.

v.

Hon.
U.S. District Court Judge

LAKELAND HOSPITALS AT NILES
AND ST. JOSEPH, INC. d/b/a LAKELAND
REGIONAL MEDICAL CENTER, Jointly
& Severally,

Defendant,

and

LAKELAND HOSPITALS AT NILES
AND ST. JOSEPH, INC. d/b/a LAKELAND
REGIONAL MEDICAL CENTER,

Third-Party Plaintiff,

v.

INTERCARE COMMUNITY HEALTH NETWORK,
SUZANNE WILCOX, CNM, and PAMELA BRADSHAW,
CNM,

Third-Party Defendants.

NOTICE OF REMOVAL

Third-Party Defendants, by and through their attorneys, Andrew Byerly Birge, United States Attorney for the Western District of Michigan, and Laura A. Babinsky, Assistant United States Attorney, file this Notice of Removal of the instant case from Berrien County Circuit Court, State of Michigan, for the following reasons:

1. The instant case was originally filed in the Berrien County Circuit Court for the County of Berrien, State of Michigan, on or about March 17, 2016. It is designated as Case No. 16-58-NH. (Plaintiff's Complaint is attached as Exhibit A.)

2. A Third-Party Complaint was filed by Lakeland Hospitals at Niles and St. Joseph, Inc. d/b/a Lakeland Regional Medical Center (Lakeland) on or about January 22, 2018, naming InterCare Community Health Network (InterCare), Suzanne Wilcox, CNM, and Pamela Bradshaw, CNM, as Third-Party Defendants. (Lakeland's Third-Party Complaint is attached as Exhibit B.)

3. The United States Attorney's Office received a copy of the Third-Party Complaint on February 8, 2018, from the U.S. Department of Health and Human Services.

4. This action is removable pursuant to 42 U.S.C. § 233(c), which provides in pertinent part as follows:

Upon a certification by the Attorney General that the defendant was acting in the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of Title 28 and all references thereto

42 U.S.C. § 233(c).

5. As set forth in the Notice of Substitution, on February 21, 2018, certification was made by Andrew Byerly Birge, United States Attorney for the Western District of Michigan, a duly authorized delegate of the Attorney General of the United States, that Third-Party Defendants InterCare, Suzanne Wilcox, CNM, and Pamela Bradshaw, CNM, were deemed employees of the Public Health Service at the time of the incident giving rise to this suit. Pursuant to this

certification and 42 U.S.C. § 233(a), (c), and (g), this matter has been deemed to be an action against the United States.

6. By filing this Notice of Removal, Third-Party Defendants do not waive any legal defenses in this matter but expressly reserve their right to raise any and all legal defenses in subsequent pleadings in this Court.

WHEREFORE, Third-Party Defendants represent that the removal statutes have been complied with and this case stands removed from the Berrien County Circuit Court to the United States District Court for the Western District of Michigan, Southern Division.

Respectfully submitted,

ANDREW BYERLY BIRGE
United States Attorney

Dated: February 23, 2018

/s/ Laura A. Babinsky
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